



State of New Jersey
DEPARTMENT OF HEALTH AND SENIOR SERVICES
OFFICE OF EMERGENCY MEDICAL SERVICES
PO BOX 360
TRENTON, N.J. 08625-0360

JON S. CORZINE
Governor

www.nj.gov/health

FRED M. JACOBS, M.D., J.D.
Commissioner

July 20, 2006

Mr. Tagwa Elnour
Goodwill Invalid Coach
111 Chestnut Street, Unit 605
Cherry Hill, NJ 08002

Re: **Notice of Proposed Assessment of Penalties:**
Mobility Assistance Vehicle Service Provider
Investigation Control # 06-B-018

Dear Mr. Elnour:

The New Jersey Department of Health and Senior Services is vested with the responsibility of carrying out the provisions of the Health Care Facilities Planning Act (N.J.S.A. 26:2H-1, et seq.) which was enacted, in part, to ensure that hospital and related health care services rendered in New Jersey are of the highest quality. As defined at N.J.S.A. 26:2H-2b, health care services include ambulance services. In addition, in accordance with §6.4 and §6.6 of the New Jersey Medical Assistance and Health Services Act (N.J.S.A. 30:4D-1 et seq.), this Department is responsible for the development of minimum licensure requirements concerning the equipment, supplies and vehicles of providers of mobility assistance vehicle services.

Furthermore, N.J.S.A. 26:2H-5 grants the Commissioner of Health and Senior Services the power to inquire into health care services and to conduct periodic inspections with respect to the fitness and adequacy of the equipment and personnel employed by those services. As such, in furtherance of each of the aforementioned statutory objectives, the Department of Health and Senior Services (the Department) adopted regulations that govern the licensure and inspection of ambulance and mobility assistance vehicle service providers and their vehicles. Those regulations are set forth in their entirety at N.J.A.C. 8:40-1.1, et seq.

On August 19, 2005, staff of the Office of Emergency Medical Services (OEMS) conducted an unannounced vehicle inspection of Goodwill Invalid Coach vehicle # 22, New Jersey license plate #X3633Z, at Silvercare Dialysis Center in Cherry Hill, New Jersey.

The following deficiencies were identified:

1. The driver's CPR certification was expired;
2. The vehicle's fire extinguisher was not secured;
3. The vehicle's air conditioning unit was not cooling vehicle; and
4. The vehicle's rear bottom door Gasket was missing.

As you should know:

N.J.A.C. 8:40-4.1(e) states, "Each crewmember shall possess and shall make available to Department staff upon demand, certification for the type or level of patient care he or she is providing. No person shall be allowed to provide a type or level of patient care beyond the level he or she is lawfully eligible to provide in the State of New Jersey. In addition, each crewmember shall, upon request by Department staff, produce a photo I.D. that Department staff may utilize in order to verify the validity of the required certification credentials."

N.J.A.C. 8:40-4.4(e)7 states, "All equipment and supplies carried on the vehicle shall be stored in a crashworthy manner (that is, they shall remain firmly in place and shall not present a hazard to any vehicle occupant in the event of an accident or sudden change in vehicle speed or direction). There shall be sufficient cabinets and other storage spaces within the vehicle so as to meet this requirement. Crashworthy retention systems shall not incorporate rubber straps, "shock cords" or Velcro [FN®]-type closures. "

N.J.A.C. 8:40-4.6(a)2 states, "Each vehicle shall have a functional heater and air conditioner: The air conditioner shall, within 45 minutes after engine start up, provide an inside ambient patient compartment temperature of:

- i. Sixty-eight to 72 degrees Fahrenheit when the outside temperature is between 75 and 85 degrees Fahrenheit; and
- ii. At least 13 degrees Fahrenheit below the outside temperature when the outside temperature is over 85 degrees Fahrenheit."

N.J.A.C. 8:40-4.8(a)1 states, "In order to minimize the amount of carbon monoxide, noxious gases, diesel exhaust, fumes and contaminants entering the vehicle: The vehicle exhaust system, as well as the vehicle exterior, doors, windows and related gaskets shall be in good condition and free of leaks."

Pursuant to N.J.A.C. 8:40-7.2(c), violation of any portion of N.J.A.C. 8:40 by a provider may be cause for action against the provider, including, but not limited to, suspension or revocation of a provider's license, a formal written warning, monetary penalty, placing the provider's vehicle in "Department-Initiated-Out-of-Service" (DIOOS) status, placing of conditions for continued operation by the provider and/or refusal to issue or renew a license.

As such, in accordance with N.J.S.A. 26:2H-14 and N.J.A.C. 8:40-7.2(e), you are hereby assessed a penalty of \$250 for violation of N.J.A.C. 8:40-4.1(e), \$250 for violation of N.J.A.C. 8:40-4.4(e)7, \$250 for violation of N.J.A.C. 8:40-4.6(a)2 and \$250 for violation of N.J.A.C. 8:40-4.8(a)1.

A certified check or money order in the amount of \$1,000 made payable to "Treasurer, State of New Jersey," must be submitted within 30 days from the date of this Notice. In accordance with N.J.S.A. 26:2H-16 and N.J.A.C. 8:40-7.2(h), failure to pay this penalty may result in the delinquent account being referred to the Office of the Attorney General for collection (N.J.S.A. 2A:58-1, et seq.), refusal by the Department to issue or renew a license and/or any such other action as authorized by law. Payment should be forwarded to:

New Jersey Department of Health & Senior Services
Office of Emergency Medical Services
P.O. Box 360
Trenton, N.J. 08625-0360
Attn: Ms. Karen Halupke

Pursuant to N.J.S.A. 26:2H-13 and N.J.A.C. 8:40-7.3, you are entitled to a hearing before the Office of Administrative Law to contest this proposed penalty assessment. Your request for a hearing on this matter must be submitted in writing and must be accompanied by a response to the deficiency noted above. In the event that you request a hearing, this penalty shall be held in abeyance until such time as the hearing has been concluded and a final decision has been rendered.

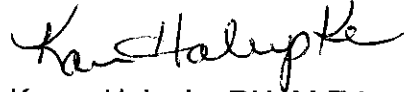
Your request for a hearing must be submitted within 30 days from the date of this Notice, and should be forwarded to:

New Jersey Department of Health & Senior Services
Office of Legal & Regulatory Affairs
Trenton, N.J. 08625-0360
Attn: Ms. Michele Stark

Please include control number 06-B-018 on all of your correspondence. **Finally, please note that failure to submit a request for a hearing within 30 days from the date of this Notice shall render this Notice final and the entire \$1,000 shall be immediately due and payable.**

If you have any questions concerning this matter, please do not hesitate to contact Samuel Stewart, Esq. of my office at (609) 633-7777.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Halupke". The signature is fluid and cursive, with the first name "Karen" and last name "Halupke" clearly distinguishable.

Karen Halupke RN, M.Ed.
Director, Emergency Medical Services

c: David Gruber, Senior Assistant Commissioner,
Division of Health Infrastructure Preparedness and Emergency Response
Joseph Tricarico, Jr., Assistant Commissioner,
Health Infrastructure Preparedness Bureau
Michele Stark, OLRA
Samuel Stewart, Esq., OEMS
Charles McSweeney, OEMS

SENT VIA REGULAR US MAIL AND
CERTIFIED MAIL #7003 1010 0005 3128 3682
RETURN RECEIPT REQUESTED